C.J.'s Court

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Wrti Petition No. 1598 (M/B) 2001
(Old No. 13305 of 1987)

Devraj Singh Bisht, S/o Sri Chanchal Singh Bisht,]
Resident of Pithoragrah Town, P.O. Pithoragarh]
Pargana Pithoragarh (sor),]
District- Pithoragarh.]---Petitioner

Vs.

1.State of U.P.,]
2.Nagar Palika, Pithoragarh,]
3. District Magistrate, Pithoragarh.]---Respondents.

Sri V.K. Bisht, Advocate for the petitioner.]
Chief Standing Counsel for the Respondents.]

Coram: **Hon'ble S.H. Kapadia, C.J.**
Hon'ble Rajesh Tandon., J.

Date: 20th of August 2003:

ORAL JUDGMENT: [Per Hon'ble S.H. Kapadia,C.J.]

1. This is a transfer matter from Allahabad High Court.

2. This writ petition was filed in 1987 against the cancellation of the lease granted by the State of U.P. in 1952 in favour of the petitioner's father Late Sri Chanchal Singh in respect of plot Nos. 865M, 879M, 890M to 896M and 898M, admeasuring 666 square yards (approximately). The said plots are situated in district Pithoragarh in State of U.P.(Now in the State of Uttaranchal). The lease was for 90 years. However, it was renewable every 30 years. One of the conditions in the lease was that the lessee will construct a Godown on the above plots and shall let out the Godown to the State of U.P., on rent. Accordingly, the petitioner claims to have

constructed a Godown and let out the same to the State. The District Supply Officer, however, took a decision in March 1972 to return the Godown to the petitioner. According to the petitioner, since the Government did not require the Godown for storage of food-grains, the Godown was let out by the petitioner to the petitioner, on 3rd June 1974 the lease was cancelled by the District Magistrate and, therefore, the petition has been filed.

3. By order dated 03.01.1974, the District Magistrate cancelled the lease on the ground that the petitioner had constructed, on the Government plot hotels and shops, which was in violation of the terms and conditions of the lease. Against the cancellation by the District Magistrate dated 3rd June 1974, the petitioner made his representation. That representation is on page-31 of the paper-book. It is interesting to note that in the entire representation, the petitioners have not denied the allegation of the District Magistrate about the violation of the terms and conditions of the lease. In fact, the representation shows that the petitioners had constructed hotels and shops, which was not permissible. In the circumstances, the lease has been properly cancelled.

4. However, subsequent to the cancellation of the lease, the Government found in large number of case commercialization of the plots let out by the Government of U.P. and, therefore, the Government decided to regularize such irregularities by lessee on payment of premium and other charges. This position is not denied by the Standing Counsel appearing for the Government.

5. In the circumstances, we do not find any merit in the writ petition. The petitioner had violated the terms and conditions of the lease. However, the petitioner is entitled to make an application to the Government for regularization within a period of eight weeks from today and if the petitioner complies with all the terms and conditions

of the Government for regularization including payment of premium, then in that event, the Government may consider regularization of the petitioners holding on such terms and conditions as and when deems fit and in accordance with law.

6. Subject to above, the writ petition is disposed of. No order as to costs.

(Rajesh Tandon,J.) **(S.H. Kapadia, C.J.)**

Melkani: